THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No.19406 of 2007

And

W.P. No. 19454 of 2007

Date:09-10-2007

W.P. No. 19406 of 2007

Between:

Chennareddy Sivamma

.. PETITIONER

AND

The R.D.O.,Nellore and another

..

RESPONDENTS

W.P. No. 19454 of 2007

Between:

Yekollu Yashodamma

.. PETITIONER

AND

The R.D.O.,Nellore and another

..

RESPONDENTS

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COMMON ORDER:

The petitioners herein seek a writ of mandamus to declare the notices issued by the 1st respondent in his proceedings No.Rc.1No.1295/2007, dated 30.07.2007 proposing to adjudicate the title dispute between the petitioners and the 2nd respondent, as illegal and arbitrary and consequently to direct the 1st respondent not to undertake any exercise of adjudicating the title in respect of the lands possessed by the petitioners.

It is the case of the petitioners that they have purchased land of an extent of Ac.6.08 cents in Sy.No.32/3 and Ac.10.00 cents in Sy.No.28 of Akkacheruvupadu village of Nellore rural mandal, Nellore District and the un-registered sale deed has been regularized under Section 5-A of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') r/w Rule 22 of the Rules and the pattadar pass books have been issued in their favour.

While so, the Revenue Divisional Officer, Nellore issued notices to the petitioners in Rc.I.No.1295/2007, dated 30.07.2007 calling upon the petitioners and the complainant i.e. the second respondent herein and others to settle the dispute with regard to the right, title, ownership and entitlement to get the pattadar pass books in respect of the said land.

The said notices have been questioned in these writ petitions stating that once the pattadar pass books and title deeds have been

issued under record of rights and pattadar pass books Act by the Mandal Revenue Officer, the aggrieved party is entitled to file an appeal under Section 5(5) of A.P. Rights in Land Pattadar Pass Books Act, 1971 and it is also open for the revisional authority i.e. Collector under Section 9 of the Act to entertain the revision. But, the Revenue Divisional Officer has no independent power or authority to settle the land dispute on a complaint filed by the second respondent.

It is true that against every order under Section 5(5) of the Act passed by the Mandal Revenue Officer, an appeal lies to the Revenue Divisional Officer. But, no such appeal has been filed either by the second respondent or by any person. No revision is filed by either party before the Collector under Section 9 of the Act. The Collector may either suo motu or on an application made to him, call for and examine the record of any Recording Authority, Madnal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly.

On the other hand, the learned Government Pleader appearing for the official respondents submits that the land in question is a surplus land and the petitioners have obtained pattadar pass books and title deeds by misleading the facts even though they are not entitled.

I am not inclined to express any opinion with regard to the merits of the case. Unless the competent authority entertains the appeal or revision, as the case may be, to rectify the record of rights, I

am of the opinion that the impugned notice issued by the first respondent is unsustainable in law.

Having regard to the facts of the case, both the writ petitions are disposed of keeping it open for the competent authority to take appropriate action in accordance with law. No costs.

V.ESWARAIAH, J.

Date:09.10.2007.
ccm